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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,281	03/24/2004	Franz Fischer	6579-0622	3945

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EXAMINER

PETERSON, KENNETH E

ART UNIT

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3724

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,281

Applicant(s)

FISCHER ET AL.

Examiner

Kenneth Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34, 36 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34, 36, 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 34,36 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawara et al. (5,046,249) in view of Althaus (5,214,851), and further in view of Apprille, Jr. (4,756,082) and/or Stiles (2004/0035003).

Kawara shows a unitary razor body with all of the limitations as seen in figure 9. The flywheel vibration device (150-152) is in proximity to the blade mount (132). The blade is vibrated along its cutting edge (lines 43-45, column 2).

Kawara's motor and eccentric flywheel are mounted directly in the head region instead of having an intermediate sleeve. However, the use of an intermediate sleeve is well known as shown by Althaus (6). It would have been obvious to one of ordinary skill in the art to have sleeved Kawara's motor and eccentric flywheel, as taught by Althaus, in order to provide a sturdier vibration device that is easier to install.

In regards to the recitation of there being an angle between the head region and handle region, Examiner takes Official Notice that such a feature is ubiquitous in modern razors. Some examples of this are the references to Apprille and Stiles. Additional references can be supplied if needed. It would have been obvious to one of ordinary skill in the art to have further modified Kawara by angling the head region (30) relative to the handle region (10), as suggested by Apprille and Stiles and dozens of

other references, in order to create a concavity on the skin-facing side of the razor, such that protruding body parts do not interfere with the motion of the handle.

3. Applicant's arguments have been fully considered but they are not persuasive.

Applicant again argues that Kawahara's head (30) is not a "head region".

Applicant's line of logic in this regard is quite tortuous. Naturally, if Kawahara calls region 30 a "head", then it is acceptable for Examiner to call it a "head region".

Applicant argues against angling Kawahara's head region (30), stating that this angling provides the benefits of minimizing handle vibration and promoting blade vibration. However, Applicant has shown zero evidence nor even any logic to support this. Since the vibration is lateral, as opposed to axial, the vibrations will partially migrate to the handle whether the head region is angled or not. In regards to promoting blade vibration, Examiner is not changing the angle between the vibrator and the blades, so this point is moot. Furthermore, Applicant has nothing to negate the angling motivation set forth by Examiner, namely to create a concavity on the skin-facing side of the razor, such that protruding body parts do not interfere with the motion of the handle.

Applicant argues that Kawahara's device is not a "unitary body". Examiner disagrees. Various courts have ruled that the term "unitary" does not preclude an object from having been made from several pieces, so long as the assembled pieces are rigidly held together. One suggestion Examiner has that may help, is to employ the term "monolithic body", which precludes an object having been made from multiple pieces.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Peterson whose telephone number is (571)272-4512. The examiner can normally be reached on Monday-Thursday, 7:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Peterson/
Primary Examiner, Art Unit 3724